

EX PARTE OR LATE FILED



December 20, 1994

RECEIVED

DEC 20 1994

VIA HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ms. Regina Keeney
Chief

Wireless Telecommunications Bureau
Federal Communications Commission
1919 M Street, N.W., Room 5002
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: PP Docket No. 93-253 -- The Simultaneous
Auctioning of C&F Block Licenses Is Critical
To the Success of Designated Entities

Dear Ms. Keeney:

In its Memorandum Opinion and Order released on November 17, 1994, the FCC indicated that it may hold separate rather than simultaneous auctions for the C&F entrepreneur block broadband PCS licenses.^{1/} As a small business designated entity, Encompass, Inc. ("Encompass") strongly encourages the Commission not to separate the C&F block auctions. In addition, Encompass urges the Commission to release a public notice announcing the start date of the C&F block auctions as soon as possible and prior to the close of the A&B block auctions. A simultaneous C&F block auction is critical to the success of designated entities for three primary reasons:

(1) as the Commission has recognized in prior orders, licenses may be highly interdependent based on aggregation of geographic license areas not merely aggregation of spectrum;

(2) simultaneous auctions provide bidders flexibility to modify their bidding strategies -- this flexibility is available to bidders on the A&B block licenses but will be strikingly absent if the C&F block licenses are auctioned separately; and

^{1/} In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, Memorandum Opinion and Order (rel. Nov. 17, 1994).

No. of Copies rec'd
List A B C D E

(3) investors in designated entities will perceive the separation of the C&F block licenses as creating an increased risk in investing in designated entities.

1. Regional Aggregation of PCS Licenses is Essential For Designated Entities

In the Memorandum Opinion and Order, the Commission cited as one rationale for separating the C&F block auctions, the perceived lack of interdependence in aggregating C&F block spectrum in a single BTA. As the Commission has recognized in prior orders, however, licenses may be interdependent in value not only based on aggregation of spectrum but also based on the ability to aggregate licenses (even if on different spectrum) in geographic license areas.^{2/} The value of C&F block licenses is highly interdependent on the ability to aggregate licenses in the entrepreneur block in geographic license markets.^{3/}

Based on its modeling of bidding strategies, Encompass firmly believes that the ability to aggregate multiple broadband PCS licenses into regional geographic areas is critical to the success of designated entities in PCS. In order for designated entities to compete effectively against nationwide and regional wireless telecommunications providers, designated entities must be able to aggregate multiple PCS licenses to create regional PCS networks. These networks must be comparable to the service coverage that will be offered by PCS providers that win the A&B block auctions, and cellular providers such as Bell Atlantic/NYNEX and AT&T Wireless. Only simultaneous auctioning of the C&F block licenses will provide a realistic opportunity for licensees to aggregate geographic license markets with a reasonable degree of certainty and to value their bids for each market simultaneously based on their interdependence.

^{2/} See *In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, (rel. July 15, 1994) at ¶ 31 (citing interdependence of licenses across geographic regions for substitutability as basis for selection of simultaneous auctions); *Second Report and Order*, 9 FCC Rcd. 2348, 2363-65.

^{3/} The difference in spectrum allocated to the C&F blocks does not pose a technical problem in providing seamless network coverage. PCS equipment will be capable of scanning the full 40 MHz of spectrum and selecting the licensed frequencies in each BTA without an interruption in service.

2. Simultaneous Auctions Provide Bidders Flexibility to Modify Their Bidding Strategies

Separation of the C&F block licenses will significantly restrain the bidders' flexibility in bidding for licenses in the entrepreneur block. The Commission previously has recognized the need for flexibility as a rationale for using simultaneous auctions rather than sequential auctions. This flexibility is essential to permit designated entities to implement their bidding strategies. The C&F block licenses, although differing in their spectrum size, are substitutable licenses. For example, in certain markets the course of bidding on the C block license may make it more economical for a designated entity to pursue the F block license. The most economical bidding strategy, however, may not be apparent at the outset of the auction and may change during the course of the auction.^{4/} Without the simultaneous auction of the C&F block licenses, designated entities will not have the flexibility to bid on multiple licenses in the same geographic area.

3. Separation of the C&F Block Auctions Will Deter Investment in Designated Entities

Investment in designated entities will be deterred by separation of the auctions for the C&F block licenses. Investors are evaluating designated entities based on their ability to pursue and implement regional network bidding strategies. Consequently, separation of the auctions will increase the perceived risk of investing in a designated entity by imposing a level of uncertainty that multiple licenses will be won and a risk that a regional bidding strategy may prove unsuccessful. For many investors in designated entities this risk may be unacceptable. Separation of the C&F auctions will limit the ability of designated entities to attract investors and raise the capital necessary to participate in the auctions.

Finally, in order to eliminate any competitive disadvantage for designated entities, the public notice announcing the start date for the C&F auctions should be released as soon as possible and prior to the close of the A&B block auctions. Any additional delay in the announcement of the commencement of the C&F block auctions will delay the ability of C&F block licensees to enter

^{4/} The Commission has recognized that simultaneous auctions have the advantage of providing bidders with more information and at a time when it is valuable. See *Second Report and Order* at 2364-65.

Ms. Regina Keeney
December 20, 1994
Page 4

the market and provide the A&B block licensees with a head start that will stifle competition among PCS providers.

Encompass appreciates the Commission's efforts to provide significant opportunities for small businesses to participate in the PCS auctions and encourages the Commission to maintain that opportunity by holding simultaneous C&F block auctions.

Sincerely,

David Lasier (ds)

David Lasier
Chief Executive Officer

cc: Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Andrew D. Barrett
Commissioner Rachelle B. Chong
Commission Susan Ness
Dr. Robert M. Pepper
Donald H. Gips
Mr. William Caton
Andrew D. Lipman (Swidler & Berlin)
Shelley L. Spencer (Swidler & Berlin)